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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

V.F.,

Petitioner,

v.

THE SUPERIOR COURT OF  
RIVERSIDE COUNTY,

Respondent;

RIVERSIDE COUNTY DEPARTMENT  
OF PUBLIC SOCIAL SERVICES,

Real Party in Interest.

E072410

(Super.Ct.No. SWJ1700020)

OPINION

APPEAL from the Superior Court of Riverside County. Judith C. Clark, Judge.

Petition denied.

Karl Fuller for Petitioner.

No appearance for Respondent.

No appearance for Real Party in Interest.

Petitioner V.F. (mother) filed a petition for extraordinary writ pursuant to California Rules of Court, rule 8.452, challenging the juvenile court's order terminating reunification services as to her children, J.F., I.F., N.F., Ev.F., Em.F., and M.F. and setting a Welfare and Institutions Code<sup>1</sup> section 366.26 hearing. We deny the writ petition.

### FACTUAL AND PROCEDURAL BACKGROUND

On September 30, 2016, the child welfare department in San Diego County filed dependency petitions regarding N.F., Ev.F., and Em.F. in the San Diego County Juvenile Court, alleging that they came within the provisions of section 300, subdivision (b) (failure to protect). N.F. was two years old, Ev.F. was one year old, and Em.F. was about two months old at that time. The police had received a call regarding potential domestic violence. They went to mother's residence, and she said she was "just fighting with him on the phone." The police entered mother's apartment and observed that it was 90 degrees inside, reeked of feces, and had "black stuff all over the floor." There were dishes piled in the sink, maggots on the dishes, flies everywhere, pincher bugs crawling around, and trash everywhere.

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<sup>1</sup> All further statutory references will be to the Welfare and Institutions Code, unless otherwise noted.

On October 3, 2016, the court detained the three children from both mother and the children's father, M.F. (father)<sup>2</sup>. The court held a jurisdiction/disposition hearing on October 25, 2016, and the matter was set for contest. The court held a contested jurisdiction/disposition hearing on January 3, 2017, and mother and father (the parents) submitted on the petition. The court found the allegations true, sustained the petition, and declared the three children dependents of the court under a plan of family maintenance.

#### *Transfer to Riverside County*

On January 10, 2017, the San Diego County welfare department filed a motion for transfer to Riverside County, which was now the parents' county of residence. The court ordered the transfers, and a transfer-in hearing was set in Riverside County for January 31, 2017. According to the case plan attached to an addendum report, the parents were required to participate in individual counseling and a parenting education program. The Riverside County Juvenile Court accepted the transfer-in on January 31, 2017, and set a family maintenance review hearing for July 31, 2017.

#### *Section 364 Family Maintenance Review*

A social worker from the Riverside County Department of Public Social Services (DPSS) filed a family maintenance review report on July 17, 2017, recommending that the parents be provided with six more months of services. The social worker reported that the parents had two other children—J.F. and I.F. The family had been receiving

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<sup>2</sup> Father is not a party to this writ.

intensive family preservation services, in-home parenting, and in-home developmental services since November 2015. Father was unemployed, and the family's current source of income was government assistance. The social worker reported that the parents had participated in their case plan services, but their progress had been minimal. Father clearly stated that he would comply with the services only to close the case. The social worker opined that such attitude explained why the parents had not benefitted from their previous services.

On July 31, 2017, the matter was set for contest for September 6, 2017. The matter was subsequently continued again.

The social worker filed an addendum report on August 31, 2017, stating that the parents were overwhelmed, as they had five young children, one of whom was medically fragile, and mother was currently pregnant.

#### *Section 300 Petition*

On September 13, 2017, the social worker filed a section 300 petition with regard to the parents' two other children, J.F. and I.F. J.F. was seven years old, and I.F. was four years old at the time. The petition alleged that they came within the provisions of section 300, subdivisions (b) (failure to protect) and (j) (abuse of sibling). The social worker also filed a section 387 petition to remove the other three children (N.F., Ev.F., and Em.F.) from the parents' custody.

In a report filed that same day, the social worker reported that during the month of July 2017, the parents failed to comply with their case plan. Furthermore, the social

worker reported possible domestic violence, in view of a text mother sent to her sister stating that father hit her and showing a picture of an injury to her face.

The court held a hearing on September 14, 2017. It found that J.F. and I.F. came within section 300, subdivisions (b) and (j), but did not detain them at that time. As to the section 387 petition with regard to the three other children, the court did not find a prima facie case and did not detain them.

#### *Jurisdiction/Disposition*

The social worker filed a jurisdiction/disposition report on October 2, 2017, recommending that the court sustain the petition as to J.F. and I.F. and declare them dependents, but dismiss the section 387 petition as to the other three children. The social worker further recommended that the court provide the parents with family maintenance services as to all five children. She reported that the parents had been involved in the child welfare system on a voluntary basis and had been offered in-home support services since November 2015. However, the family failed to benefit from the services. There were 16 prior child abuse referrals, the children were often reported to be dirty and smelling of urine, they had a chronic lice condition, and the home was filthy. Nonetheless, the parents did not feel the court had enough cause to remove the children from the home.

On October 5, 2017, the social worker filed an amended section 300 petition to add an allegation that the parents placed J.F. and I.F. at risk of harm by exposing them to acts of domestic violence.

In an addendum report filed on October 20, 2017, the social worker reported that the parents were provided with services, but had failed to complete them or benefit from them. They had a pattern of missed appointments, and they had been discharged by providers due to lack of participation or delayed enrollment. In addition, there was evidence of domestic violence in the home, as shown by the picture of a black eye mother sustained from father. Previously, mother reported on May 8, 2015, that she went to a domestic violence shelter and stayed there for approximately two weeks. She said she left there to give father another chance, since he gave up alcohol. Father enrolled in a substance abuse program on September 26, 2017, and tested positive for marijuana two days later. The social worker noted that the court ordered him not to use marijuana at the hearing on September 14, 2017.

On October 25, 2017, the social worker filed a section 300 petition to add to the dependency the parents' newest child, M.F., who was approximately three weeks old. In a detention report, the social worker reported that mother denied any domestic violence in the home. She asked mother about her black eye, and mother said her son accidentally hit her when they were playing.

The social worker filed a jurisdiction/disposition report on November 14, 2017. She noted that father had been virtually non-compliant with services. The social worker was also concerned about mother's minimization of the domestic violence in the home. Mother admitted father used to hit her, which resulted in a broken arm, a "messed up" leg, and other bruises.

The court held a combined hearing on November 17, 2017. It dismissed the petition regarding M.F. filed on October 25, 2017, pursuant to DPSS's motion. The court continued N.F., Ev.F., and Em.F. as dependents of the court. DPSS filed, and the court sustained, an amended petition as to J.F., I.F., and M.F., declared them dependents of the court, and ordered the parents to participate in family maintenance services. The court also dismissed the amended section 387 petition as to N.F., Ev.F., and Em.F., pursuant to DPSS's motion.

#### *Section 364 Family Maintenance Review*

On May 4, 2018, the social worker filed a family maintenance review report, recommending that the children remain dependents of the court, and the parents be given six more months of services. Both parents were unemployed, and the family lived in a two-bedroom apartment. In an addendum report, the social worker reported that the parents had minimally cooperated with DPSS and had not complied with their case plan services. The social worker stated that their motivation for participating was clearly to close the dependency, not to benefit from the services. The parents' lack of motivation was reported by multiple service providers.

On June 7, 2018, mother reported that she was in an abusive relationship with father, and she wanted to take her children to a domestic violence shelter and divorce her husband. However, the next day, she changed her plan to go to a shelter and decided to kick father out of the home instead. She then decided to stay with her sister in San

Diego, and she and father agreed to split the children. Father would keep the three older children, and she would take the three younger ones to San Diego.

On June 18, 2018, the court detained J.F., I.F., and M.F. from the parents and set a detention hearing for June 21, 2018.

#### *Section 387 Petition*

On June 21, 2018, the social worker filed an amended section 387 supplemental petition regarding all six children (the children), alleging that the previous disposition had been ineffective. The petition specifically alleged that the parents failed to participate in and complete domestic violence counseling after a confirmed incident where mother sustained a black eye at the hands of father. Furthermore, they had failed to benefit from the services provided. The court held a hearing and found that the children came within section 387 and detained them in foster care. The court ordered supervised visitation between the parents and the children to be twice a week.

#### *Jurisdiction/Disposition*

The social worker filed a jurisdiction/disposition report on July 10, 2018, recommending that the children be continued dependents and the parents be offered reunification services. Mother reported that she had a restraining order against father that was filed on June 25, 2018 and she would be filing for divorce. She said she had a physical altercation with father on June 21, 2018, that the physical abuse had been ongoing for six years, and that the children witnessed it.



The social worker filed an addendum report on August 16, 2018. The report indicated that mother filed a three-year restraining order against father on July 31, 2018. The restraining order named mother and the children as the protected persons.

The court held a contested hearing on the amended section 387 petition on August 21, 2018, and sustained the petition. It continued the children as dependents and ordered the parents to participate in reunification services. Mother's case plan required her to participate in wraparound services, individual counseling, and complete a domestic violence program.

#### *Six-month Status Review*

The social worker filed a six-month status review report on February 7, 2019. She reported that mother was still in a relationship with father, was living with him, and had dropped the restraining order. As to her case plan, mother was not able to complete wraparound services, since she no longer had any children in her care. She had completed eight out of 16 counseling sessions and had made minimal progress in her domestic violence program.

The court held a hearing on February 19, 2019, and authorized DPSS to give the parents housing assistance and up to \$1,000 for rent and a deposit, as long as they did not live together. It then set another date for a contested hearing.

The social worker filed an addendum report on March 22, 2019, stating that father had not yet mitigated any of the domestic violence issues that brought him to the court's

attention, he only recently started his drug treatment program, and was still testing positive for cannabis.

The court held a contested six-month review hearing on March 27, 2019.

Mother's counsel presented the court with mother's stipulated testimony, stating that if mother were to testify, she would say she applied for two housing units through a rental company, but was denied. She was currently seeking to rent a unit through another company. She would testify that she brought cash with her to court and planned to go to the rental company that day, expecting to be approved. She would also testify that she learned she needed to have boundaries with her husband, and that he used to drop her off at her unsupervised visits, but she had been taking the bus instead for the past month.

Mother also submitted a letter from the alternatives to domestic violence program dated March 26, 2019, stating that she had been enrolled in a group since January 9, 2019, had completed 12 of the 12 mandatory classes, and had demonstrated an understanding of the topics presented. Mother also submitted a letter confirming that she had participated in individual therapy from November 8, 2018 to March 15, 2019, and attended 12 out of 13 sessions.

The court heard extensive arguments from counsel for the children and mother's counsel. It then concluded that mother had not learned anything in the three years of this case, as evidenced by her having the restraining order dismissed. The court noted that mother continued to make poor choices, not recognizing that father was not changing his behavior. It did not see him making any serious effort to change anything; yet, mother

stayed with him, prioritizing her relationship with him over the opportunity to reunify with the children. It questioned whether mother had really made substantive progress, which it defined as benefitting from services, not just attendance. The court found it significant that mother requested to dismiss the restraining order and noted that she never followed it. The court further noted that one of the children acknowledged that mother let father come to an unsupervised visit, which showed a lack of protective behavior. The court opined that the parents were going through the motions of the case plan, but not internalizing the information or making any changes. It concluded that both mother and father had failed to make substantive progress in their case plans. It then terminated reunification services and set a section 366.26 hearing.

### ANALYSIS

#### There Was Substantial Evidence to Support the Termination of Reunification Services

Mother argues there was insufficient evidence to support the court's finding that she failed to participate regularly and make substantive progress in her case plan. Thus, she requests that the order terminating her reunification services and setting a section 366.26 hearing be reversed. We conclude the evidence was sufficient.<sup>3</sup>

#### *A. Standard of Review*

We review a juvenile court's order at a section 366.21 hearing for substantial evidence. (*In re Shaundra L.* (1995) 33 Cal.App.4th 303, 316.) "All conflicts must be

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<sup>3</sup> We note that county counsel filed a letter indicating it would not be filing a response to the writ petition.

resolved in favor of respondent on appeal and all legitimate and reasonable inferences indulged in to uphold the verdict if possible. Where there is more than one inference which can reasonably be deduced from the facts, the appellate court is without power to substitute its deductions for those of the trier of fact.” (*Adoption of R.R.R.* (1971) 18 Cal.App.3d 973, 983.)

*B. The Evidence Was Sufficient*

The children were removed from mother’s care on June 21, 2018, pursuant to the amended section 387 petition, which alleged that the parents failed to participate in and complete domestic violence counseling after a confirmed incident where mother sustained a black eye at the hands of father. Furthermore, they had failed to benefit from the prior services provided. The court ordered her to participate in reunification services, requiring her to participate in wraparound services, participate in individual counseling, and complete a domestic violence program.

In the six-month status report filed on February 7, 2019, the social worker reported that mother had only completed half of her counseling sessions. Moreover, although she was participating in a domestic violence program, her attendance was poor, and she had made minimal progress. Furthermore, the evidence showed that mother filed a three-year restraining order against father on July 31, 2018, but subsequently dismissed it. The evidence showed that mother was still in a relationship with father and was living with him. She herself reported that there had been ongoing physical abuse for six years, in front of the children. Yet, as the court observed, she dismissed the restraining order,

which demonstrated that she prioritized her relationship with father over the opportunity to reunify with the children.

Mother points out that she was attempting to move out from father. However, as the social worker observed, her motivation for participating in services was to close the dependency, not to benefit from the services. In other words, although mother may have been attempting to move out, it was apparently just to appease the court, not because she saw the need to. Moreover, although she submitted evidence that she had recently completed 12 sessions of a domestic violence program, she clearly had not benefitted from them, since she was still living with father.

In sum, the evidence was sufficient to support the court's finding that, although mother had participated in services, she had not made substantive progress and had failed to benefit from them. Therefore, the evidence supported the court's decision to terminate services and set a section 366.26 hearing.

#### DISPOSITION

The writ petition is denied.

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McKINSTER  
Acting P. J.

We concur:

FIELDS  
J.

RAPHAEL

J.